IN THE HIGH COURT OF JUDICATURE AT BOMBAY

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Writ Petition No.79 of 2005

Union of India and ors ...Petitioners

vs

Suhas Shashikant Vilankar .respondent

Mr P.M.Pradhan with Parkar for petitioners

Mr Rahul Walia for respondents

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.

Dated 8.6.2005

P.C:

. The respondent has been continuously working for the last l3 years under the petitioner and he is entitled for regularisation in service in view of the OM No ll2034/l3/9l-AD-III-B dated 30.3.l992 and OM No. 5l0l6/2/90/Estt C dated l0.9.l993.There is no dispute that the relief has been granted in similar case by the decision of the Bombay Bench of Central Administration Tribunal in OA No.9l8 of l995 and OA No. ll5 of 2003 etc decided on 2l.l0.2003.

. The scheme for regularisatino was considered by the Supreme Court in the case of Union of India vs Mohan Pal etc 2002(l) SCSLJ 464 and the Court in para 6 observed:

" Clause 4 of the Scheme is very clear that

the conferment of "temporary" status is to be given to the casual labourers who were in employment as on the date of commencement of the scheme. Some of the Central Administrative Tribunals took the view that this is an ongoing scheme and as and when casual labourers complete 240 days of work in a year or 206 days (in case of offices observing 5 days week), they are entitled to get "temporary" status. We do not think that clause 4 of the scheme envisages it as an ongoing scheme. In order to acquire "temporary" status, the casual labourer should have been in employment as on the date of commencement of the scheme and he should have also rendered a continuous service of at last one year which means that he should have been engaged for a period of at least 240 days in a yea of 206 days in case of offices observing 5 days a week. From clause 4 of the scheme, it does not appear to be a general guidelines to be applied for the purpose of giving "temporary" status to all the casual workers, as and when they complete one year’s continuous service. Of course, it is up to the union Government to formulate any scheme as and when it is found

necessary that the casual labourers are to be given "temporary" status and later they are to be absorbed in Group "D" posts".

. The respondent has been employed on daily wages sweeper with effect from 2.6.l989 and is continuously working on that basis. In the circumstances the tribunal was right in directing regularisation of his services.

. The only submission of Mr. Pradhan is that the respondent cannot be said to have completed continuous service of 206 days service as he was working as part timer for four hours per day initially and thereafter 6 hours per day. The submission is required to be stated only to be rejected. The letter of appointment produced on record shows that the appointment of the respondent was made on full time basis. The fact that thereafter he was given work for four hours to 6 hours a day cannot defeat the respondent’s right to get permanency under the scheme framed by the petitioner. Petition is dismissed.